

Memo

To: Michael Guttman, City Administrator
City of West Chicago

From: Patrick K. Bond, City Attorney

Date: August 11, 2016

Re: *Meadow Wood Water Billing Flyer*

Question Presented:

The City of West Chicago recently became aware of flyers being circulated in the Meadow Wood Subdivision claiming that Illinois law prevents the City from billing for water service delivered more than twelve months prior to the issuance of the water bill. The City asked to be advised as to the appropriate response to this claim.

As you are aware, this identical allegation was raised previously in that same Subdivision. At the time the City first had concerns that the Contractor was not going to be able to timely deliver the system for which the City contracted in connection with the water meter replacement project, the City sought legal advice as to its legal ability to collect for the water services utilized by the businesses and residences in the City. My legal analysis on this recurring issue remains the same and is set forth briefly below.

Short Answer:

The Administrative Regulations to which the flyer refers do not apply to the City of West Chicago. The City's provision of water to its residents does not make it a "public utility," as defined Illinois Public Utilities Act (220 ILCS 5/3-105) (hereafter "IPUA") and is not, therefore, subject to said regulations.

Statutes and Regulations:

(Ill. Admin. Code Title. 83, Chapter. 1b)

Section 280.100 Previously Unbilled Service

b) Time Limits:

1) Bills for any utility service, including previously unbilled service, supplied to a residential customer shall be issued to the customer within 12 months after the provision of that service to the customer.

(220 ILCS 5/3-105) (from Chapter. 111 2/3, par. 3-105)

Sec. 3-105. Public utility.

...

(b) "Public utility" does not include, however:

(1) public utilities that are owned and operated by any political subdivision, public institution of higher education or municipal corporation of this State, or public utilities that are owned by such political subdivision, public institution of higher education, or municipal corporation and operated by any of its lessees or operating agents;

Discussion/Conclusion:

The Administrative Regulations are issued by the Illinois Commerce Commission, pursuant to its rulemaking authority under the IPUA. Therefore, the scope of that regulatory power is defined and limited by statute. The IPUA's purpose is not to regulate municipalities and other political subdivisions providing utilities, but rather to regulate the independent public utilities that serve them. The IPUA makes that clear in the definition section of the Code. Any reference to a "public utility" in the Administrative Code does not include the City of West Chicago. As such, the City billing for water services provided twelve or more months earlier to its businesses and residences is not prohibited.